

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA)	
)	No. 25 CR 045
v.)	
)	Hon. Heather K. McShain
JEFREY ESTRADA-PASTRANA)	

**SUPPLEMENT TO MOTION TO MODIFY CONDITION 7(q)(i)(2) OF THE
CONDITIONS OF PRETRIAL RELEASE, TO ADD A 3RD PARTY
CUSTODIAN, AND CHANGE HOME ADDRESS**

On February 18, 2025, this Court ordered that defendant's motion to modify bond conditions, Dkt. 18, defendant order an expedited transcript of the 1/29/25 detention hearing before Judge McShain. Dkt. 20. As such, **JEFREY ESTRADA-PASTRANA**, by the Federal Defender Program and its attorney **KATHLEEN LEON**, submits this supplement to his above titled motion with the transcript of the 1/29/2025 detention hearing attached. In support of his Motion to Modify Condition 7(q)(i)(2) of the Conditions of Pretrial Release, to Add a 3rd Party Custodian, and Change Home Address, Mr. Estrada-Pastrana directs the Court to page 26, lines 22-25 ("Employment also weighs in favor of release. This is someone who has had consistent employment for several years, who has been earning an income, supporting his family, his children. That weighs in support of release.") and page 30, lines 15-18 ("And I'm going to place him on location monitoring. But I want to make sure that he is able to continue to work. So I'm

putting him on the least restrictive location monitoring, and that's home detention.")

Respectfully submitted,

FEDERAL DEFENDER PROGRAM
John F. Murphy
Executive Director

By: /s/ Kathleen Leon
KATHLEEN LEON
Attorney for Jeffrey Estrada-Pastrana

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EXHIBIT A

TRANSCRIBED FROM DIGITAL RECORDING

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,)	Case No. 24 C 45
)	
Plaintiff,)	
)	
vs.)	
)	
JEFY ETRADA-PASTRANA,)	Chicago, Illinois
)	January 29, 2025
Defendant.)	10:46 A.M.

TRANSCRIPT OF PROCEEDINGS - Detention Hearing
BEFORE THE HONORABLE HEATHER K. McSHAIN, Magistrate Judge

APPEARANCES:

For the Government: HON. MORRIS PASQUAL
219 South Dearborn Street
Chicago, Illinois 60604
BY: MS. DIYA RATTAN

For the Defendant: FEDERAL DEFENDER PROGRAM
55 East Monroe Street
Suite 2800
Chicago, Illinois 60603
BY: MS. KATHLEEN LEON

ALSO PRESENT: Ms. Tiffany Minarik
Pretrial Service Officer

PAMELA S. WARREN, CSR, RPR
Official Court Reporter - Retired
23869 N. High Ridge Drive
Lake Zurich, Illinois 60047
312.823.0001

NOTE: Please notify of correct speaker identification.

1 (Proceedings held in open court:)

2 THE CLERK: 25 CR 45, USA versus Jefry Estrada-
3 Pastrana for detention hearing.

4 THE COURT: Good morning. Counsel, please state your
5 appearance for the record, beginning with government.

6 MS. RATTAN: Diya Rattan the government.

7 THE COURT: You are free to remain seated. Thank you.
8 For the defendant, please.

9 MS. LEON: Good morning, your Honor. Kathleen Leon
10 from the Federal Defender Program behalf of Mr. Estrada-
11 Pastrana.

12 THE COURT: Thank you.

13 And pretrial services are by phone, please.

14 MS. MINARIK: Good morning. Tiffany Minarik with
15 pretrial services.

16 THE COURT: Thank you, Ms. Minarik.

17 And I apologize for keeping everyone waiting. It has
18 just been a busy morning on duty.

19 Okay. We're here for a detention hearing. Ms. Leon,
20 are you ready to proceed?

21 MS. LEON: Yes, Judge.

22 THE COURT: Okay. And is government ready to proceed
23 as well?

24 MS. RATTAN: I am, your Honor.

25 THE COURT: Okay. Thank you.

1 I have the pretrial services report. Thank you so
2 much, Ms. Minarik, for preparing it.

3 Ms. Minarik, can I just clarify one entry with you,
4 please. It is on -- it relates to the criminal history, and it
5 is on page 6 of the pretrial services report. If you have it
6 handy.

7 MS. MINARIK: Yes, your Honor.

8 THE COURT: Okay. So there -- the next to last entry
9 on the pretrial services report relating to case 23 CR 130661,
10 a felony theft deception and then felony forgery issue deliver
11 document. The first entry to the far right, that is this
12 petition for revocation filed. I am confused as to why that's
13 the first entry. Was he -- was Mr. Estrada-Pastrana on bond,
14 like arrested 11/9/23 on bond, and then the petition for
15 revocation got filed?

16 MS. MINARIK: Yes, your Honor. On 11/10/23, the Cook
17 County docket reflects that he was released on bond, including
18 pretrial supervision.

19 THE COURT: Okay.

20 MS. MINARIK: And then the following entry after his
21 release on 11/10/23 is the petition for revocation.

22 THE COURT: Okay. And then the next sort of the date
23 that in that far right column, the 11/7/2024, then the motion
24 was denied and then Mr. Estrada-Pastrana then was -- was that
25 on bond and had -- is there any other notation as far as

1 appearance in court then on that case?

2 MS. MINARIK: No, your Honor. The only -- the next
3 docket entry just states that his next court date is on
4 January 29th, 2025.

5 THE COURT: Okay. Got it. Okay. Thank you for
6 clarifying that.

7 So we're ready to proceed then. This is not a
8 presumption case, so my intention is to have the government
9 argue first given that it's the government's burden on this
10 motion.

11 And then I'll hear from you, Ms. Leon.

12 And I will give the government last word to respond or
13 reply to anything that the defense raises.

14 So you're welcome to begin, Ms. Rattan.

15 MS. RATTAN: Thank you, your Honor.

16 The government agrees with the pretrial services
17 recommendation in this matter and asks that the Court find
18 under 3142(e) (1) that no conditions can be fashioned to
19 reasonably assure the defendant's presence for further
20 proceedings in this matter.

21 Accordingly, we're seeking detention under the risk of
22 nonappearance. And our position is based on a handful of
23 fact- -- of the 3142(g) factors that we believe weigh in favor
24 of detention.

25 The nature and circumstances of the offense charge

1 would weigh in favor of detention. This is a continuing based
2 offense -- a continuing offense based on seven prior removal
3 proceedings.

4 I acknowledge that the pretrial services report
5 indicates that the defendant has been removed three times from
6 this country. However, my review of the defendant's A-File,
7 and in speaking to a deportation officer to understand my
8 interpretation of the A-File, indicates that the defendant has
9 been removed a total of seven times. That includes in 2007,
10 2008, 2010, and 2012, 2015, 2016, and 2021.

11 Importantly, the majority of these removals occurred
12 after the defendant was subject to unrelated criminal
13 proceedings, which is similar to what's occurring in --
14 currently in this case. And these unrelated criminal
15 proceedings range from traffic offenses to serious felonies,
16 such as robbery and fleeing.

17 Furthermore, the defendant has a previous conviction
18 for a similarly charged crime of unlawful reentry after
19 deportation. He was sentenced to 16 months in prison in the
20 district court of the Southern District of Texas.

21 The stakes aren't -- in this case aren't potentially a
22 longer sentence of the -- potentially longer than 16 months.
23 But I anticipate, based on the information provided in the
24 pretrial services report, there is consideration on the
25 defendant's behalf regarding his family and economic financial

1 situation. And although this is a status offense versus a
2 violent offense, this matter and the potential consequences are
3 serious for him.

4 The defendant's history and characteristics also weigh
5 in favor of detention in this matter. His past conduct
6 indicates that the defendant has a history of not following
7 court orders. And this begins with some of his earliest
8 history and contact with the judicial system in this country.

9 A review of the defendant's A-File indicates that he
10 was granted initially in 2006 voluntary removal and indicated
11 to the Court that he would voluntarily remove himself from the
12 United States. Unfortunately, the Court, the immigration court
13 had to undertake additional proceedings and findings and issue
14 an order of removal after he overstayed. This resulted in his
15 first removal in 2007.

16 Since then there is no instance of applying for
17 permission to reenter, despite being advised of this multiple
18 times. In full candor to the Court, I will indicate that the
19 A-File reflects two instances where the defendant did, after he
20 reentered the country, apply for asylum. There were full
21 proceedings and hearings in those matters in 2012 and 2015.
22 These requests for asylum were unfounded, and he was removed in
23 both those instances.

24 The defendant's criminal history also reflects an
25 attempt -- attempts to evade detection from law enforcement,

1 which is concerning in regards to any sort of potential
2 pretrial supervision that would require communicating contacts
3 with law enforcement.

4 In April of 2012, he was charged with obstruction,
5 obstructing identification. And in particular in this case, he
6 also failed to appear. A warrant was issued, and he forfeited
7 bond.

8 In March of 2014, he picked up a case involving
9 aggregated fleeing. He admitted to an immigration court
10 official that when he saw law enforcement trying to pull him
11 over in this case, he fled in car and then on foot to avoid
12 detection specifically because of his unlawful status. And
13 according to the charges in that case, there was also property
14 damage that occurred during flight.

15 The record of court appearances and how the defendant
16 has done on supervision also indicates that there is no
17 combination of conditions that can reasonably assure the
18 defendant's appearance in further proceedings. He has three
19 previous bond forfeitures in 2007, 2010, and 2012. He violated
20 a conditional discharge sentence in 2008, and that ultimately
21 resulted in a sentence to jail.

22 And my review of both the criminal history and the
23 deportation history indicates that while he was sentenced to
24 probation in a case in 2010 and then parole in 2014 in the
25 second case, it appears that he actually remained in custody

1 pending immigration proceedings and was removed. So it is
2 unclear whether or not he was -- actually completed supervision
3 without any violations in those cases.

4 Importantly, my understanding, based on the
5 conversation the Court had with pretrial services earlier
6 today, is that the defendant was on supervision, pretrial
7 supervision related to a felony forgery case when he
8 subsequently picked up this case and another traffic violation.

9 Once again, in full candor to the Court, that traffic
10 violation, at least reflected in the NCIC, appears to be nolle
11 pros. So I'm not sure if that is still pending, at least in my
12 understanding of the NCIC.

13 However, it indicates that despite supervision, there
14 is a concern about whether or not the defendant will be able to
15 comply with court orders if out in the community.

16 Briefly, for the record, I would also just mention a
17 few additional 3142(g) factors. The weight of evidence in this
18 case. Obviously the defendant's presence here is irrefutable,
19 and there is forensic fingerprint analysis indicating that he
20 had been -- he has been previously removed on prior instances.

21 A combination of conditions, such as -- I believe a
22 family member, father or mother, being a good third-party
23 custodian wouldn't be appropriate in this case based on the
24 fact that the defendant doesn't live with this individual, he
25 lives with someone else. I believe a long-term girlfriend.

1 My understanding is his father's status is also in a
2 questionable situation and may -- he may be subject to removal,
3 which would make it difficult, obviously, for him to ensure his
4 son's appearance in court.

5 Pretrial supervision isn't sufficient in this matter,
6 as previously indicated that he was on pretrial service
7 supervision in a state -- currently pending state offense.

8 And bond and monetary conditions would not be
9 sufficient based on the fact that there are three prior
10 judgments of bond forfeiture.

11 I would also argue that home monitoring is a passive
12 form of supervision. And the defendant has shown that he will
13 actually take active measures to avoid apprehension, such as
14 fleeing from law enforcement.

15 So based on all of these factors, I would ask the
16 Court to find that the defendant -- there are no conditions
17 that can be fashioned to reasonably assure the defendant's
18 presence in this matter.

19 THE COURT: Thank you. Can I just review one thing
20 that you said or just make sure that I am tracking? I think
21 you stated that he -- that Mr. Estrada-Pastrana has illegally
22 reentered seven times. The affidavit -- the criminal complaint
23 affidavit at paragraph 6 has six dates. Is there a date -- I
24 just want to make sure, is it six or seven?

25 MS. RATTAN: There are seven prior removal

1 proceedings. And I apologize if this -- this was unclear. He
2 has been removed seven times prior. The re- -- I did not
3 count, obviously, the first time that he entered the United
4 States as a part of reentry because that was the first time
5 that he entered the United States.

6 THE COURT: Okay. So it is seven prior removal
7 proceedings, but then --

8 MS. RATTAN: Six reentries.

9 THE COURT: -- six reentries into the country
10 following. Okay.

11 MS. RATTAN: Yes.

12 THE COURT: And also, you referred to this as a
13 continuing offense. You know, one of the 3142(g) factors is
14 whether or not -- is whether or not someone is on some sort of,
15 you know, bond or probation at the time of the instant alleged
16 offense. How does that factor apply here when it is a
17 continuing offense such as this, when someone is here
18 illegally?

19 I mean, and then -- are you -- you mention that
20 factor. But are you applying it because he picked up these two
21 state cases while here illegally in this most recent time
22 frame?

23 MS. RATTAN: Yes. The time frame I was looking at is
24 basically from the time that he potentially reenters
25 unlawfully. It is a continuing offense. Obviously he -- we're

1 not clear on the specific date of reentry. But with that, he
2 had two somewhat recent state offenses that he committed. One
3 of them was on supervision. There has been sufficient time to
4 either apply retroactively for permission to reenter or to
5 leave the country. And that, at least in his A-File, is not
6 reflected. So that's kind of how I am looking at this in terms
7 of timeline.

8 THE COURT: Okay. Thank you for that clarification.
9 Ms. Leon.

10 MS. LEON: Sure. Thank you, Judge. I submit that
11 there are conditions or a combination of conditions that will
12 reasonably assure my client's appearance in court. It is my
13 understanding that the government was moving for detention
14 based on serious risk of flight. And serious risk of flight
15 under (f) (2) (A) is a great risk beyond average that the
16 defendant will intentionally and actively move outside of the
17 jurisdiction to avoid court proceedings or supervision. And I
18 don't think the government has demonstrated that. I think they
19 have demonstrated ordinary risk of flight. But ordinary is not
20 good enough under (f) (2) (A) .

21 I understand my client has a lengthy criminal history,
22 but it -- a lot of it is quite dated and a lot of it occurred
23 when he was very young.

24 I also understand he has some bond forfeiture
25 warrants. But the plain -- the plain language of flight, as

1 some courts have defined it, is an intentional act by a
2 defendant to evade criminal prosecution. And these bond
3 forfeitures were not as a result of intentional acts.

4 It is my understanding that in 2010 my client was
5 taken into ICE custody while he was paroled. There is no
6 volitional act there. It was not his decision to violate his
7 parole. He was in ICE custody and then he was subsequently
8 removed from the United States at that point.

9 In addition, your Honor, the Court must inquire into
10 what occurred with these failure to appears because that must
11 also be a volitional act. And he does have failure to appears,
12 but he does have an excuse for each failure to appear. He was
13 quite young when some of them occurred. He didn't have a
14 license and couldn't make it to court. There were other times
15 where he had other proceedings pending at the same time and he
16 had to be at these other proceedings.

17 And I understand that because of this -- the nature of
18 this crime it means that, you know, he's committing --
19 allegedly committing two different crimes at the same time
20 because he's here illegally and also he has this new arrest for
21 something else. But I think the fact that he keeps reentering
22 into the country cuts both ways. Chicago is all he knows.
23 According to his mother, he was brought here when he was 11 or
24 12 years old. His parents are here. His children's here. Any
25 family he knows is here, other than a grandmother he hasn't

1 seen since he was 11 years old who is 80, 90 something years
2 old in Honduras --

3 Honduras?

4 THE DEFENDANT: Yes.

5 THE COURT: -- I believe.

6 He -- he essentially has no ties to his birth country.
7 All of his ties are here in the United States.

8 And courts have noted that community ties anywhere in
9 the U.S. weighs against finding a serious risk of flight. To
10 the extent that a defendant has community ties somewhere in
11 this country, the defendant is less likely to choose the path
12 of the fugitive than not appearing in court.

13 And I understand he has some cases where there was
14 flight from -- from law enforcement individuals. However,
15 courts have also stated that avoiding being caught in the heat
16 of the moment is not the same as being inclined to jump bail.

17 The direct quote is, there is a difference between
18 someone being inclined to avoid being caught in the act and
19 someone once caught and brought before the Court being inclined
20 to jump bail. Those are two different things.

21 And I think the 2023 -- I guess that was an arrest.
22 The 2023 case -- I'll say the 2023 theft deception case shows
23 that he -- he is willing to go to court. He does go to court.
24 He's pending -- he is facing a pretty serious crime here. I
25 don't know how much time it carries. I don't really know the

1 state laws or how much time each charge carries. But he is
2 still here.

3 It is my understanding that for the last year he has
4 been going to court and showing up in court -- and having
5 worked in state court, not here, but in Florida -- when you
6 don't show up, you are going to get a failure to appear. They
7 don't care about the reason. And so after that failure to
8 appear is entered and you come to court the next time, and
9 maybe they will quash it. There is no failure to appears here.

10 And as far as the operating an uninsured motor
11 vehicle, it is my understanding that has been nolle pros'd as
12 well.

13 My client's most recent criminal history, again the
14 aggravated fleeing, avoiding being caught in the heat of the
15 moment -- he understands that he is not a U.S. Citizen. It is
16 very different than going to court after you have been caught.

17 The rest of his most recent criminal history, other
18 than this theft deception, which he enjoys the presumption of
19 innocence for -- and from my understanding from the state PD is
20 taking to trial -- we have traffic offenses and those are
21 pretty low-level offenses.

22 I'm not -- I'm not arguing that because they are
23 low-level offenses that it is not serious and that he shouldn't
24 be following the law. But he has gone to court every time.
25 There is -- there is, of course, no disposition noted. But my

1 client has represented to me that he has gone to court every
2 single time he has been required to go to court, unless there
3 is some sort of transportation issue or miscommunication with
4 his attorney.

5 So, Judge, I do think -- his mother is here today. I
6 think she would serve as a suitable third-party custodian. I
7 think any risk of flight that is here is ordinary and mitigated
8 or can be mitigated by a set of conditions, including an ankle
9 monitor, home detention, home incarceration.

10 I would, of course, prefer the lower level because my
11 client does work. He does take care of his family. He has a
12 sister who suffers from scoliosis who just had a heart
13 operation who he helps his mother care for.

14 He cares for four children, all here in the United
15 States, U.S.-born children. His girlfriend is here. His long-
16 time girlfriend is here.

17 Again, Judge, everybody he knows, cares about, et
18 cetera, is here. Every time he has allegedly reentered -- I
19 think it is proven -- reentered the United States, he has come
20 back here to Chicago, to the people he knows and loves, to the
21 only people he knows here in America.

22 So I just don't see a risk of flight here, a serious
23 risk of flight here. He has nowhere to go. He has nowhere to
24 go where he knows anybody or has any support. All of his
25 support is here in Chicago. Some of whom in the courtroom

1 today.

2 So I do think there are a combination of conditions.
3 The PTRAscore states, you know, when not considering technical
4 violations, he has an 80 percent likelihood of success.
5 Unfortunately, when technical violations are considered by
6 PTRAs, the computer doesn't take into account the reasons behind
7 those technical violations. They don't -- it doesn't go any
8 further than there is some technical violations.

9 So I submit to the Court that, again, there are, I
10 believe, combinations of conditions that will mitigate any
11 flight risk here.

12 THE COURT: Ms. Leon, just a couple of questions. So
13 Mr. Estrada-Pastrana though, for the last several years, has
14 been residing with his girlfriend, correct?

15 MS. LEON: That's correct.

16 THE COURT: But you're proposing that if he were to be
17 released that he reside with his mother or father.

18 MS. LEON: His mother, not his father. They are
19 not -- his mother and father are not together. So they do live
20 separately.

21 His mother, I have spoken to her. She is very willing
22 to take her son in, even if he is on an ankle monitor or
23 something of the sorts. And it is my understanding from the
24 pretrial report that she doesn't have a criminal history.

25 Oh, there is one notation for driving on a suspended

1 license. Disposition unknown.

2 And she does have protected status here in the United
3 States.

4 THE COURT: And why are you not proposing the
5 girlfriend?

6 MS. LEON: At -- quite frankly, your Honor, to be
7 honest, I was in court all day yesterday and didn't have time
8 to speak to the girlfriend. And I noticed she was not -- she
9 was not interviewed, I don't think, by pretrial services. So I
10 think it is best to pick somebody who was interviewed by
11 pretrial services and that I have spoken to myself. That is
12 the reason.

13 THE COURT: And is -- is Ms. Pastrana in the courtroom
14 today?

15 MS. LEON: She is, your Honor.

16 THE COURT: Does she speak English?

17 MS. LEON: She -- broken English. But she understands
18 it very well. A little trouble with certain words saying it
19 herself, yes.

20 THE COURT: Is Ms. Pastrana willing to come to the
21 podium and answer some questions?

22 MS. LEON: Yes, your Honor.

23 THE COURT: Ms. Pastrana, could I ask you to come up
24 to the front of the courtroom, please?

25 MS. LEON: Would your Honor like me to stand with her?

1 THE COURT: You're welcome to.

2 MS. LEON: Okay.

3 THE COURT: That's fine.

4 MS. LEON: She's a little nervous.

5 THE COURT: Either. Just so you're both speaking into
6 a microphone, please.

7 Hi, Ms. Pastrana. Good morning.

8 MS. PASTRANA: Good morning.

9 THE COURT: I'm Heather McShain. I'm the Judge who
10 is -- I know you have been in the courtroom this whole time --
11 who is tasked with making this decision on the government's
12 detention motion. And as you heard it discussed today on the
13 record, you have been proposed as a third-party custodian for
14 your son.

15 In your own words, what do you understand serving as a
16 third-party custodian to mean?

17 MS. PASTRANA: Custodian for me to mean is he can stay
18 at my house and I can check everything what's going on with him
19 and like take -- he can stay at my house. Like, you know, if I
20 like let him come home, he about to live with me. Because it
21 is only one son I have. That's the only one.

22 THE COURT: He's your only son?

23 Do you understand that this role of third-party
24 custodian, it is not only to provide a place for your son to
25 live, but also to report him to the Court or to pretrial

1 services if he were to violate any of his bond conditions? Do
2 you understand that would also be part of your role?

3 MS. PASTRANA: Yes.

4 THE COURT: And you -- you would report your son if
5 he, for example, didn't return to the home when he was required
6 to or violated any other condition?

7 MS. PASTRANA: Yes.

8 THE COURT: And you understand that if you did that,
9 it could result in more significant consequences or penalties
10 for your son?

11 MS. PASTRANA: Yes.

12 THE COURT: Takes a lot of fortitude to make a call
13 like that on your child. You would be willing to do that?

14 MS. PASTRANA: I would do that, of course.

15 THE COURT: Okay. Does the government have any
16 questions you would like me to pose to Ms. Pastrana?

17 MS. RATTAN: No, your Honor.

18 THE COURT: Okay. Thank you.

19 Thank you, Ms. Pastrana, for taking the podium. I
20 appreciate it.

21 Ms. Leon, did you have any other points you wanted to
22 make?

23 MS. LEON: Nothing further, your Honor. Thank you.

24 THE COURT: Thank you.

25 Back to you, government counsel. I'm happy to hear

1 additional argument, respond to any of those points.

2 MS. RATTAN: Yes, your Honor. Just to clarify that
3 under 3142(e) (1) the standard or the question is if there is a
4 combination of conditions that will reasonably assure the
5 appearance of the person. Slightly different than the serious
6 risk of flight that's mentioned in Subsection (f) (2) (A) .

7 That being said, my understanding is that the
8 defendant is proposing his mother with -- and living with his
9 mother as a third-party custodian in this case as an option
10 that would provide supervision.

11 My concern is based on his criminal history, which
12 starts at the age of 16 and looking through 17 years old when
13 he was a minor, presumably, living with parents or some sort of
14 guardian, there were a number of criminal violations that
15 occurred at this stage in his life that included a violation of
16 bail bond conditions, as well as the bond forfeiture warrant
17 issuing in the 2006 case and a violation -- a finding of
18 violation of the conditional sentence.

19 So, once again, based on that history and the history
20 indicating that he has violated bond conditions subsequently as
21 an adult and was currently on supervised -- or supervision in a
22 state case, my concern here is that there are not -- there is
23 not a combination of conditions that would reasonably assure
24 his appearance for further proceedings.

25 THE COURT: Thank you.

1 So I'm going to put my findings on the record right
2 now in ruling on the government's motion. I just want to
3 confirm. I know that this is the pretrial services report and
4 government counsel referenced pretrial services's
5 recommendation.

6 But, Ms. Minarik, just so the record is clear, it
7 continues to be pretrial services's recommendation that
8 Mr. Estrada-Pastrana be detained according to that assessment
9 of nonappearance and also you have an assessment of danger as
10 well. I realize that the government is only moving under risk
11 of nonappearance. But pretrial services's recommendation is
12 detention, correct?

13 MS. MINARIK: That is correct, your Honor.

14 THE COURT: Okay. And also just to confirm on the
15 record, is there an ICE detainer in place?

16 MS. RATTAN: Yes, there is an ICE detainer in place.

17 MS. LEON: If I may, your Honor.

18 THE COURT: Yes.

19 MS. LEON: Just that the fact that there is
20 immigration removal proceedings or an ICE detainer in place
21 does not qualify as flight or serious -- or a risk of
22 nonappearance because, again, the volition element. So I don't
23 think that's a basis to deny Mr. Estrada-Pastrana bond.

24 THE COURT: Anything else you want to say in response
25 to that?

1 MS. RATTAN: The government is not arguing that.

2 THE COURT: Right. I just wanted to confirm on the
3 record if there was one in place.

4 MS. RATTAN: Sure. Yes.

5 THE COURT: So thank you.

6 So we're here on the government's motion. Sorry.
7 We're here on the government's motion to detain defendant Jefry
8 Estrada-Pastrana. And the government sought a detention
9 hearing, and the Court found that the government was entitled
10 to a detention hearing pursuant to 18 United States Code,
11 Section 3142(f) (2) (A) on a serious risk of flight.

12 The government seeks to detain Mr. Estrada-Pastrana
13 based only on that serious risk of nonappearance. And in its
14 report of January 28, 2025, pretrial services recommends
15 detention. And Ms. Minarik confirms that remains pretrial
16 services's recommendation today on the record.

17 This Court, having reviewed and considered the
18 evidence presented to include the pretrial services's report
19 and recommendation, having heard argument from both parties on
20 this matter at this detention hearing today, the Court makes
21 the following findings of fact and conclusions of law: So the
22 defendant has been charged by criminal complaint here with
23 illegal reentry in violation of Title 18, United States Code,
24 Section 1326(a).

25 And considering the government's motion for detention,

1 the Court's guided by several principles. At all times the
2 defendant is entitled to the presumption of innocence. So
3 nothing that the Court sets forth in its findings today is
4 intended or should be considered to affect that presumption.

5 The purpose of this hearing is to determine whether
6 notwithstanding that presumption of innocence the defendant
7 should be detained or released pending trial.

8 Under the Bail Reform Act, a defendant must be
9 released prior to trial unless the Court finds that there is no
10 condition or combination of conditions that will reasonably
11 assure the appearance of the defendant as required.

12 I'm not going to address sort of standards or language
13 in the Bail Reform Act regarding safety to the community given
14 that the government is only moving here under risk of flight.

15 So, again, under the Bail Reform Act, the -- a
16 defendant must be released prior to trial unless the Court
17 finds that no condition or combination of conditions that
18 exists will reasonably assure the appearance of the defendant
19 as required.

20 The act requires the least restrictive conditions be
21 imposed that are necessary to provide the reasonable
22 assurances. If the Court cannot find any condition or
23 conditions that will reasonably assure the appearance of the
24 defendant as required, then the Court is required by the Bail
25 Reform Act to order the defendant held in custody.

1 With respect to the burden of proof here, the facts
2 supporting a finding that no condition or combination of
3 conditions could reasonably assure the appearance of the
4 defendant as required, must be established by a preponderance
5 of the evidence.

6 The Court in making its determination must analyze and
7 consider the 3142(g) factors that the Bail Reform Act requires.
8 And those are the nature and circumstances of the alleged
9 offense, the weight of the evidence against the defendant.
10 Although this Court acknowledges that under Seventh Circuit
11 case law this factor carries the least weight.

12 The history and characteristics of the defendant,
13 which include defendant's physical and mental condition, family
14 ties, employment, length of residency in the community,
15 criminal record or lack thereof, history of drug or alcohol
16 abuse, record of appearance at prior court proceedings whether
17 the defendant was on a conditioned release of some sort at the
18 time of the new alleged offense, and then the fourth factor is
19 the nature and seriousness of the danger to any person or the
20 community.

21 The Court has considered the evidence that's been
22 presented on these factors during this hearing today by both
23 sides, and I have also considered, again, the pretrial services
24 report as well as pretrial services's recommendation.

25 Based on the specific facts in this case and specific

1 consideration of this defendant, the Court finds that the
2 government has not met its burden with respect to a risk of
3 flight here and that there are conditions or combination of
4 conditions that are available to mitigate this risk of
5 nonappearance.

6 Let me just put my findings on the record, and then
7 I'm going to talk about this combination of conditions that the
8 Court intends to impose.

9 So the alleged offense here is illegal reentry. This
10 is not a violent offense. It is serious in that -- based on
11 the information in front of this Court to include this
12 affidavit in support of a criminal complaint, that after seven
13 prior removal proceedings, the defendant on six other occasions
14 has reentered.

15 It is a serious offense, but it is in the spectrum of
16 things -- and I'm going to address this when I talk about the
17 factors here, the conditions of release here, that can assure
18 or mitigate the risk of nonappearance. Those are going to sort
19 of move the needle as far as, you know, the seriousness of this
20 offense, the fact that it is continuing. And also I agree with
21 the assessment that the evidence is strong here with respect to
22 the identification of the defendant and with respect to his
23 ties to these -- you know, to the A-File and to the six prior
24 reentries into this country.

25 Looking at the history and characteristics of this

1 35-year-old defendant, many of these support release here. The
2 defendant in the pretrial services report talks about that he
3 is suffering a physical condition, just experiencing some
4 ongoing chronic pain, and also does talk about some mental
5 health background. But that is something that can be addressed
6 while he's on release. Obviously it could be addressed in
7 custody as well. But it is just not driving the decision here,
8 and I just find it neutral with respect to this Court's
9 decision.

10 With respect to family ties and time in the Northern
11 District of Illinois or ties to this community, these obviously
12 weigh in favor of release here. This is someone who came to
13 this country at 11 or 12 years old, has two parents, five
14 siblings, four children, and a girlfriend all in Northern
15 District of Illinois.

16 Every time that he has been removed, he has come back
17 to this area. It is just a point that is hard to argue against
18 with respect to he keeps coming back here because this is where
19 his entire sort of family nucleus is. So those factors or
20 consideration of those characteristics of this defendant weigh
21 in favor of release.

22 Employment also weighs in favor of release. This is
23 someone who has had consistent employment for several years,
24 who has been earning an income, supporting his family, his
25 children. That weighs in support of release.

1 History of drug or alcohol abuse, the pretrial
2 services report does mention social drinking, daily use of
3 marijuana. This can be addressed on bond as well. Obviously I
4 will impose conditions that he's not to use illegal substances,
5 which will include marijuana, and also to limit the drinking.
6 He'll also be subject to random drug testing. So this can be
7 addressed on bond and it is not a reason and does not weigh in
8 favor of detention.

9 Record of appearance at prior court appearances,
10 criminal record, and whether a defendant was on some sort of
11 conditioned release at the time of the new alleged offense.
12 Again, this is a 35-year-old defendant. I credit the
13 government's recitation here with respect to this criminal
14 history. And as it is outlined in the pretrial services
15 report, there are bond forfeitures here. There is also felony
16 conviction of robbery back in 2010. There is also the felony
17 aggravated fleeing back in 2014.

18 Those are obviously serious crimes. And the fleeing
19 goes to, and the government correctly credibly, you know,
20 pointed to that conviction with respect to or in support of its
21 motion to detain. But that is a dated conviction.

22 And what speaks or what resonates with this Court or
23 is weighing heavily on this Court's determination today or
24 ruling today is when you look at this criminal history he does
25 have -- Mr. Estrada-Pastrana does have these two recent Cook

1 County cases. Granted he picked up these two cases, not
2 convicted in these, but picked up these charges, you know,
3 while he's here illegally. But the fact is that he -- there is
4 nothing in the pretrial services report -- and I confirmed this
5 with Ms. Minarik on the record today -- with respect to the
6 felony charges in the 2023 case out of Cook County.

7 Mr. Estrada-Pastrana has been appearing. There is nothing in
8 his criminal history recently where he has not been appearing
9 for court and where there was this petition for revocation that
10 was denied on November 7, 2024.

11 And, again, there is no indication that he's not been
12 appearing in court, has not been satisfying his bond conditions
13 in that felony case, with the exception of this misdemeanor --
14 these misdemeanor vehicle charges that were nolle'd that came
15 up in 2024 and that I think led to, at least how this Court is
16 reading this, led to this revocation -- the petition for
17 revocation filed a couple of days after that arrest.

18 As a result of that criminal history, while again he's
19 picking up these convictions while he's here illegally, and the
20 Court acknowledges that, again it just doesn't outweigh or the
21 Court is satisfied, again, that there are conditions of release
22 that can be fashioned here that will assure this defendant's
23 appearance at future court proceedings.

24 And the conditions I intend to impose -- and I'll
25 address these holistically after I just get them on the record.

1 And if I could ask government or defense, do either of
2 you have a -- okay. If you could just follow along and then
3 I'll also give each of you an opportunity to respond to these.

4 I'm going to place the defendant into the custody of
5 his mom who will serve as a third-party custodian. As
6 difficult as it is for any parent to potentially report on
7 their child if they violate a bond condition, I was able to
8 look Ms. Pastrana in the eye. She answered my questions. And
9 I know that she wants to support her son and keep him -- you
10 know, keep him in line here so that he doesn't get into further
11 trouble with respect to law enforcement and with respect to his
12 current case.

13 So he's going to be placed in the custody of his mom.
14 He's going to reside with his mom, and she will serve as third-
15 party custodian.

16 The defendant will also be ordered to submit to
17 supervision.

18 He is to surrender any passports. To the extent there
19 is a passport, he's to surrender that within two business days
20 to pretrial services. He's not to obtain a passport or other
21 international document.

22 His travel is going to be restricted to the Northern
23 District of Illinois. He is to get -- this is 7H. Wait.
24 Sorry. I think I have the wrong paragraph.

25 So 7H is get medical or psychiatric treatment. I'm

1 just going to -- I'm checking that paragraph, but it is going
2 to be at pretrial services's direction. So I'll leave it to
3 pretrial services to determine whether or not that's going to
4 be appropriate given what was reported in the pretrial services
5 report.

6 He is not to possess a firearm, destructive device, or
7 other weapon.

8 He is not to use alcohol at all. That's paragraph L.

9 Paragraph M, not use or unlawfully possess a narcotic
10 drug or other controlled substance. He's to submit to testing
11 for a prohibited substance.

12 He is to participate in a program of inpatient or
13 outpatient substance use treatment if it is directed by
14 pretrial services.

15 And I'm going to place him on location monitoring.
16 But I want to make sure that he is able to continue to work.
17 So I'm putting him on the least restrictive location
18 monitoring, and that's home detention.

19 So he's restricted to his residence except for
20 employment, education, religious services, medical substance
21 use or mental health treatment, attorney visits, court
22 appearances, court-ordered obligations, activities approved by
23 the Court or essential activities approved in advance by the
24 pretrial services office or supervising officer.

25 He's also to report as soon as possible -- this is

1 paragraph 7R -- any contact with law enforcement.

2 And paragraph S will be that pretrial services has two
3 business days to install the location monitoring equipment.

4 I realize the government sought to detain here and
5 that pretrial services recommended it. But, again, given
6 this -- given this entire sort of holistic view here, the
7 location monitoring, the fact that there will be a third-party
8 custodian in place, and that pretrial services will be also
9 supervising this defendant who, again, has his entire family
10 here in this district and who has employment in this district,
11 the Court believes that these conditions will address any
12 concerns, mitigate the risk of nonappearance, and are suitable
13 under the Bail Reform Act and in line with the Bail Reform Act
14 with respect to the least restrictive conditions must be
15 imposed.

16 Again acknowledging government move to detain. Are
17 there any conditions that the government would seek despite its
18 objection to this release order?

19 MS. RATTAN: No, your Honor.

20 THE COURT: Ms. Leon, do you have any objection to any
21 of those proposed conditions by the Court?

22 MS. LEON: No objection, your Honor.

23 THE COURT: Okay. Pretrial services, again I know
24 your recommendation was to detain. But from pretrial
25 services's standpoint, are there any conditions that pretrial

1 services would ask the Court to consider or any concerns with
2 those that the Court has imposed?

3 MS. MINARIK: No, your Honor.

4 THE COURT: Okay. Thank you, Ms. Minarik.

5 What I would like to do is take a brief recess to
6 allow this order setting conditions of release -- I'm also
7 going to impose an appearance bond unsecured in the amount of
8 4500.

9 If you could complete that paperwork. And then,
10 Ms. Leon, I would like you to explain it to both Ms. Pastrana,
11 as well as Mr. Estrada-Pastrana, and then I'll come back on the
12 record to admonish.

13 MS. LEON: Sure, your Honor.

14 THE COURT: Thank you, Ms. Leon.

15 MS. RATTAN: Your Honor, just could you repeat the
16 bond?

17 THE COURT: 4500 unsecured.

18 MS. RATTAN: 45?

19 THE COURT: Sorry, 4500 --

20 MS. RATTAN: Okay.

21 THE COURT: -- unsecured OR bond. I'm sorry if I just
22 misstated that again.

23 MS. RATTAN: Thank you, your Honor.

24 THE COURT: Of course. We'll take a brief recess.

25 And just let my courtroom deputy know when you're ready.

1 Ms. Leon, could you also review the penalties and
2 sanctions --

3 MS. LEON: Yes.

4 THE COURT: -- if any of these bond conditions are
5 violated? Thank you.

6 MS. LEON: Yes, your Honor.

7 (Brief recess.)

8 THE COURT: We're back on the record. And I have in
9 front of me the order setting conditions of release as well as
10 the appearance bond.

11 Mr. Estrada-Pastrana and Ms. Pastrana, I need you to
12 listen as I review on the record now each of these conditions
13 of release. And I'm going to ask each of you a series of
14 questions after I'm done putting these on the record. Okay?

15 So on release, Mr. Estrada-Pastrana, you need to abide
16 by the following conditions of your release as follows: First,
17 you must not violate federal, state, or local law while you're
18 on release.

19 You must cooperate in the collection of a DNA sample
20 if it is required by statute.

21 You must advise the Court or pretrial services in
22 writing before making any change to your residence or telephone
23 number.

24 You must appear in court as required. And if you are
25 convicted, you must surrender -- you must surrender as directed

1 to serve any sentence that the Court may impose.

2 I have also ordered you to sign an appearance bond,
3 which you have, in the unsecured amount of \$4500. And I have
4 that in front of me.

5 You're going to be placed into the custody of your mom
6 who is going to serve as a third-party custodian. You also,
7 while you're on release, must submit to supervision by pretrial
8 services. And you're going to need to check in with your
9 pretrial services officer no later than two business days from
10 today.

11 You must surrender any passport to pretrial services
12 within two business days. You must not obtain a passport or
13 other international travel document while you're on release.

14 Your travel, while you're on bond, is restricted to
15 the Northern District of Illinois. If you have any concerns
16 about a location and whether or not it is going to fall within
17 or with outside of the district, talk to your pretrial service
18 officer or talk to Ms. Leon.

19 You must get medical or psychiatric treatment if
20 recommended by pretrial services.

21 On release you must not possess a firearm, destructive
22 device, or other weapon.

23 You must not use alcohol at all. You must not use or
24 unlawfully possess a narcotic drug or other controlled
25 substance unless it is prescribed by a licensed medical

1 practitioner. This includes marijuana.

2 You must submit to testing for a prohibited substance
3 if it is required by pretrial services. That testing may be
4 random in frequency. And you must not obstruct, attempt to
5 obstruct, or tamper with the efficiency and accuracy of the
6 substance screening or testing for prohibited substances.

7 On release, you must participate in a program of
8 inpatient or outpatient substance use treatment if it is
9 directed by the pretrial services officer or office.

10 You're to participate in location monitoring program,
11 specifically home detention. Meaning that you're going to be
12 restricted to your mom's residence at all times with the
13 following exceptions: Employment, education, religious
14 services, medical, substance use, or mental health treatment,
15 attorney visits, court appearances, court-ordered obligations,
16 activities approved by the Court, or essential activities
17 approved in advance by the pretrial services office or
18 supervising officer.

19 You must report as soon as possible to pretrial
20 services every contact that you have with law enforcement.
21 That includes arrest, questioning, or traffic stops.

22 And finally, the location information monitoring
23 information -- or the equipment for the location home
24 monitoring, pretrial services will install that within two
25 business days.

1 So those are all of the conditions of release that the
2 Court is ordering for Mr. Estrada-Pastrana.

3 I want to talk now about the penalties or the
4 sanctions that could follow if you violate any of these
5 conditions of release. So if you violate any one of those
6 conditions, that could result in the immediate issuance of a
7 warrant for your arrest, a revocation of your release, meaning
8 you're taken back into custody. An order of detention, meaning
9 you remain in federal custody.

10 A forfeiture of any of bond. Meaning the government
11 can seek a judgment in the amount of \$4500 against you.

12 And a prosecution for contempt of court, and that
13 could result in imprisonment, a fine, or both.

14 In addition, if you commit another federal felony
15 offense while you are on bond, that could not only result in an
16 additional case and, if convicted, additional, you know,
17 sentence imposed, but that's also going to -- could result in
18 additional time, like a more enhanced sentence if you are
19 convicted in your pending case right now.

20 Finally, how you perform on bond is something that if
21 you're convicted in this case that the sentencing judge will
22 take account of at the time of sentencing.

23 So if you don't violate any conditions, if you're
24 totally fine on bond, you're going to give Ms. Leon, your
25 attorney, facts to argue in mitigation or in support of a lower

1 sentence.

2 If you violate bond, if you are back in court because
3 you're not following these conditions of your release, you're
4 going to give government counsel additional facts to argue in
5 aggravation or in support of a higher sentence.

6 So there is a lot at stake here with respect to how
7 you conduct yourself, how you perform on bond.

8 So I'm going ask Mr. Estrada-Pastrana some questions
9 now. Did you hear me just state on the record each of those
10 conditions of your release?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: Do you understand each of those
13 conditions?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: Any questions about them?

16 THE DEFENDANT: No, your Honor.

17 THE COURT: And did you have sufficient time to talk
18 to Ms. Leon about those conditions?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: And you heard me state on the record the
21 possible sanctions or penalties that could follow if you
22 violate any of these conditions of your release?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: And Ms. Leon reviewed those with you as
25 well, correct?

1 THE DEFENDANT: Correct.

2 THE COURT: Okay. Ms. Pastrana, could I have you come
3 back to the podium, please.

4 How are you, Ms. Pastrana?

5 MS. PASTRANA: Hi.

6 THE COURT: You heard me state on the record each of
7 the conditions of release that the Court is imposing that your
8 son must follow while he's on release. Did you hear each of
9 them?

10 MS. PASTRANA: Yes.

11 THE COURT: Do you have any questions about them?

12 THE DEFENDANT: No.

13 THE COURT: Do you --

14 MS. PASTRANA: My son is a good man so he understand
15 what's going on.

16 THE COURT: Okay. But it is important that you
17 understand what's going on as well.

18 MS. PASTRANA: Yes.

19 THE COURT: So do you understand each of those
20 conditions?

21 MS. PASTRANA: Yes.

22 THE COURT: Okay. And do you understand that you're
23 taking on this role of third-party custodian, meaning you're
24 not only going to house your son, but if he violates any of
25 those conditions, if he is drinking, if he is using marijuana,

1 if he is not in the house when he's supposed to, you're going
2 to call pretrial services or you're going to call the Court,
3 correct?

4 MS. PASTRANA: Correct.

5 THE COURT: And you're going to abide by that
6 responsibility?

7 MS. PASTRANA: Yes.

8 THE COURT: And you're doing this of your own free
9 will?

10 MS. PASTRANA: Yes.

11 THE COURT: No one is forcing you to take on this role
12 of third-party custodian?

13 MS. PASTRANA: No.

14 THE COURT: And you understand each of the conditions?

15 MS. PASTRANA: Yes.

16 THE COURT: Okay. Thank you so much. I appreciate
17 it.

18 MS. PASTRANA: Thank you.

19 THE COURT: With that, I will enter this order setting
20 conditions of release and the appearance bond. My order will
21 also just state that -- and I -- again, I'm fully aware that
22 there is an ICE detainer in place here. But it is the
23 expectation of the Court that Mr. Estrada-Pastrana will be
24 released upon processing in the ordinary course and that
25 nothing is going to delay that processing in release with --

1 the existence of the ICE detainer will not -- will not impede
2 his processing and release in the ordinary course.

3 The only other issue that I needed to take up was
4 appointment. And I appreciate that Ms. Leon did file an under-
5 seal supplement that I did have a chance to review. And based
6 on that additional information that Ms. Leon was able to
7 clarify, I do find that Mr. Estrada-Pastrana does -- does
8 qualify for appointment of counsel. And so I -- my intention
9 is to enter an order as well appointing Ms. Leon to serve as
10 counsel going forward.

11 MS. LEON: Thank you, your Honor.

12 THE COURT: Yeah. Is there anything else that needs
13 to be taken up at this time?

14 From the government.

15 MS. RATTAN: Not from the government.

16 THE COURT: Thank you so much.

17 From the defense.

18 MS. LEON: I have been informed that this is probably
19 not going to happen, Judge, but I did promise a child that I
20 would ask. My client, upon release from the MCC, based on what
21 occurred yesterday with my other client, will be detained by
22 ICE and his family will not be able to say goodbye at that
23 point. So I'm asking the Court to allow them to hug him
24 goodbye now.

25 THE COURT: I'm sorry, I -- as sympathetic as I am to

1 the situation, it is against the marshal service policy. And
2 for the safety of everyone in this courtroom, I can't permit it
3 as sympathetic as I am to the situation. So I -- I can't.

4 MS. LEON: I already knew the answer, but I had to
5 ask.

6 THE COURT: I understand, Ms. Leon.

7 Anything further, Ms. Leon?

8 MS. LEON: Nothing further.

9 THE COURT: Ms. Minarik, anything further from
10 pretrial services?

11 MS. MINARIK: No.

12 THE COURT: Thank you so much, everyone, for your
13 time. Thanks to the marshal service in the courtroom today. I
14 know this was a long one so thank you so much.

15 We're adjourned.

16 (Which concluded the proceedings.)

17 CERTIFICATE

18 I certify that the foregoing is a correct transcript
19 from the digital recording of proceedings in the above-entitled
20 matter to the best of my ability, given the limitation of using
21 a digital-recording system.

22
23 /s/Pamela S. Warren
24 Official Court Reporter - Retired
25 United States District Court
Northern District of Illinois
Eastern Division

February 18, 2025
Date

CERTIFICATE OF SERVICE

The undersigned, Kathleen Leon, an attorney with the Federal Defender Program hereby certifies that in accordance with FED.R.CRIM. P. 49, FED. R. CIV. P5, LR5.5, and the General Order on Electronic Case Filing (ECF), the following document(s):

**SUPPLEMENT TO MOTION TO MODIFY CONDITION 7(q)(i)(2) OF THE
CONDITIONS OF PRETRIAL RELEASE, TO ADD A 3RD PARTY
CUSTODIAN, AND CHANGE HOME ADDRESS**

was served pursuant to the district court's ECF system as to ECF filings, if any, and were sent by first-class mail/hand delivery on February 19, 2025, to counsel/parties that are non-ECF filers.

By: /s/ Kathleen Leon
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